

### **REMARKS**

The Official Action mailed May 15, 2008 has been carefully considered. Reconsideration and allowance of the subject application, as amended, are respectfully requested.

### **Claim Amendments**

Claim 9 has been amended to recite that the plunger is compressed between the lever roller and the stationary roller in the extended position. Claims 1-5 and 7-8 have been cancelled without prejudice. Support for these amendments may be found throughout the specification, e.g. at page 5, lines 10-15 and FIG. 2. No new matter is believed to have been added.

### **35 U.S.C. §102(b)**

Claims 1, 3, 4, 5, 7, 9, 10, 12, 23, 25, 26, 27, and 28 were rejected under 35 U.S.C. §102(b) as being anticipated by Kataumi et al. (U.S. Patent No. 5,421,792, hereinafter "Kataumi"). Claims 1-8 have been cancelled without prejudice, rendering the rejections thereof moot. Applicants respectfully traverse the rejections.

Independent claim 9, as amended, recites:

9. An actuator comprising:
  - a base plate;
  - a lever pivotally mounted to said base plate by a pin, said lever comprising a lever roller, and said lever being pivotable between a first position and a second position;
  - a stationary roller disposed on said base plate;
  - a solenoid mounted to said base plate and comprising a plunger moveable between an extended position and a retracted position, wherein ***said plunger is disposed compressed between said lever roller and said stationary roller in said extended position*** of said plunger and in said first position of said lever, preventing said lever from pivoting to said second position.

Independent claim 23 recites:

23. An actuator comprising:
  - a base plate;

a latching lever pivotally mounted to said base plate by a pin and pivotable between at least a first position and a second position, said lever comprising a lever bearing surface;

a stationary bearing surface; and

a solenoid mounted to said base plate and comprising a plunger moveable between an extended position and a retracted position, wherein in said first position of said lever and in said extended position of said plunger, ***said plunger is compressed between said lever bearing surface and said stationary bearing surface blocking said lever from pivoting to said second position***, and in said retracted position of said plunger said lever is not blocked from pivoting between said first position and said second position.

Independent claims 9 and 23 require that the “plunger is compressed between” the lever roller and stationary roller (claim 9) or the lever bearing surface and the stationary bearing surface (claim 23). Compressing the plunger between the rollers/surfaces and the advantages attendant thereto are described for example at page 5, lines 5-15 of the specification:

Referring to FIG. 2, the assembled actuator 10 is shown in a first “out of park” configuration. In the “out of park” configuration rollers 20 and 22, respectively disposed on a free end of the latching lever 16 and the base plate 12 are positioned in an opposed arrangement. The solenoid 14 is energized to extend the plunger 28 between the opposed rollers 20, 22. The presence of the plunger 28 between the rollers 20, 22 locks the latching lever 16 against pivoting in a counterclockwise direction to a “park” configuration. However, as can be seen in the illustration, the solenoid 14 does not itself resist the motion of the latching lever 16. Rather, the solenoid 14 extends to position the plunger 28 such that when the lever 16 rotates counterclockwise the plunger 28 is ***compressed between the lever roller 20 and the stationary roller 22. This may allow a relatively low power solenoid to lock the latching lever 16 against a high load.*** (emphasis added).

Applicants respectfully submit that Kataumi does not teach or suggest an actuator wherein a plunger is “compressed between” rollers/surfaces as claimed. Instead, the plunger in Kataumi is coupled to a slot in a lock lever for pulling and pushing the lock lever in clockwise and counter clockwise directions. This is confirmed at Col. 5, line 46 to Col. 6, line 3 of Kataumi with reference to FIG. 6:

The actuator 44, for example, a solenoid 44 with the plunger 48, is secured to the positioning plate 10. The plunger 48 which is partly contained inside the solenoid 42 is energized by a spring (not shown) so as to exit the solenoid 44. ***The hook portion 48a formed in the distal end of the plunger 48 is engaged with the slot 43c in the arm 43b of the lock lever 43 as shown in FIG. 6.***

When a lever welded to the shift lever 30 abuts a contact point of a microswitch (not shown), the solenoid 44 is turned on or is excited and the ***plunger 48 enters the solenoid 44. In this on state of the solenoid 44, the lock lever 43 rotates clockwise*** in FIGS. 6 and 10 so that the arm 43d can be located directly under the bottom face of the projection 42d of the second operation lever 42 which is positioned at a specific position when the positioning pin 31 is positioned at the parking position (P).

Further, the solenoid 44 is turned off when a brake pedal is pressed before the vehicle is started. ***In this off state of the solenoid 44, the plunger 48 is caused to exit the solenoid 44 by the spring so as to rotate the lock lever 43 counterclockwise in FIG. 6*** and to allow the arm 43d to be withdrawn from under the bottom face of the projection 42d of the second operation lever 42 which is positioned at a specific position when the positioning pin 31 is positioned at the parking position (P). (emphasis added).

The plunger of Kataumi includes a portion disposed in a slot in a lock lever, but Applicants find nothing in Kataumi that teaches or suggests plunger that is “compressed between” rollers/surfaces, as claimed. As discussed at page 5, lines 13-15 of the specification, this allows a relatively low power solenoid to lock the latching lever 16 against a high load.

Since Kataumi fails to teach or suggest essential limitations of claim 9 and 23, Applicants respectfully submit that these claims cannot be anticipated by Kataumi. Claims 1-8 have been cancelled without prejudice. Claims 10, 12 and 25-28 depend from claims 9 or 23 and are also not anticipated by Kataumi, at least by virtue of their dependency. Applicants respectfully request, therefore, that the rejection of claims 1, 3, 4, 5, 7, 9, 10, 12, 23, 25, 26, 27, and 28 under 35 U.S.C. §102(b) as being anticipated by Kataumi be withdrawn upon reconsideration.

#### Rejections Under 35 U.S.C. §103

Dependent claims 2 and 24 were been rejected under 35 U.S.C. §103(a) as being obvious in view of Kataumi combined with Dörr et al. (U.S. Patent No. 5,379,872, hereinafter “Dörr”). Dependent claims 8, 13 and 29 have been rejected under 35 U.S.C. §103(a) as being obvious in view of Kataumi combined with Mochida (U.S. Patent No. 4,473,141, hereinafter “Mochida”). Applicants respectfully request reconsideration of these rejections.

Claims 1-8 have been cancelled without prejudice. All of the remaining claims rejected under 35 U.S.C. § 103 depend from independent claims 9 or 23. Applicants respectfully submit that none of the additional references disclose or suggest the limitations missing from the primary reference, Kataumi, nor have they even been asserted to provide such teachings. As such, these claims are believed to be allowable over the cited references by virtue of their dependency as well as for their own limitations.

Having dealt with all the objections raised by the Examiner, it is respectfully submitted that the present application, as amended, is in condition for allowance. Thus, early allowance is earnestly solicited.

If the Examiner desires personal contact for further disposition of this case, the Examiner is invited to call the undersigned Attorney at 603.668.6560.

In the event there are any fees due, please charge them to our Deposit Account No. 50-2121.

Respectfully submitted,

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